

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
:
In re: : Chapter 11
:
SEARS HOLDINGS CORPORATION, *et al.*,¹ :
:
Debtors. : Case No. 18-23538-rdd
:
: (Jointly Administered)
:
-----X

**APPELLANT TRANSFORM HOLDCO LLC'S
STATEMENT OF ISSUES TO BE PRESENTED AND
DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant Transform Holdco LLC ("Transform"), by and through its undersigned counsel, hereby respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, this statement of issues to be presented and designation of items to be included in the record on appeal with respect to its appeal of this Court's *Order Granting the Debtors' Third Motion to Enforce the*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); SR – Rover de Puerto Rico, LLC (f/k/a Sears, Roebuck de Puerto Rico, Inc.) (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Rover Brands Business Unit, LLC (f/k/a Sears Brands Business Unit Corporation) (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors' corporate headquarters is 130 W. 44nd St., 17th Fl., New York, NY 10036.

Asset Purchase Agreement (ECF No. 9574) (the “Appealed Order”)² before the United States District Court for the Southern District of New York (the “District Court”).

STATEMENT OF ISSUES ON APPEAL

1. Did the bankruptcy court (the “Bankruptcy Court”) err in granting the *Debtors’ Third Motion to Enforce the Asset Purchase Agreement* (ECF No. 9395) (the “Motion”) and ordering Transform to effectuate payment to the Debtors of \$6,274,398 in cash held in bank accounts owned by the Debtors’ former Indian and Hong Kong subsidiaries?

DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

Transform designates the following items for inclusion in the record on appeal. Each designated item shall also include any and all exhibits, documents, supplements and addenda annexed to and referenced within such items.

DOCUMENTS FILED IN BANKRUPTCY COURT

Docket No.	Docket Entry Date	Description
405	11/1/2018	Amended Order Implementing Certain Notice and Case Management Procedures
856	11/21/2018	Order Authorizing and Establishing Procedures for De Minimis Asset Sales and De Minimis Asset Abandonments
1730	1/18/2019	Notice of Successful Bidder and Sale Hearing
2456	2/7/2019	Notice of Filing Amendment to Asset Purchase Agreement
2507	2/8/2019	Order (I) Approving the Asset Purchase Agreement Among Sellers and Buyer, (II) Authorizing the Sale of Certain of the Debtors’ Assets Free and Clear of Liens, Claims, Interests and Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts, and Leases in Connection Therewith and (IV) Granting Related Relief

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the *Appealed Order*.

2599	2/14/2019	Notice of Filing Executed (I) Employee Lease Agreement, (II) Services Agreement, and (III) Amendment No. 1 to the Asset Purchase Agreement
2766	3/6/2019	Transform Holdco LLC's Motion to Assign Matter to Mediation
2796	3/11/2019	Debtors' (I) Motion to (A) Enforce Asset Purchase Agreement and Automatic Stay Against Transform Holdco LLC and (B) Compel Turnover of Estate Property, and (II) Response to Transform Holdco LLC's Motion to Assign Matter to Mediation
2864	3/18/2019	Transform Holdco LLC's Response to Debtors' (I) Motion to (A) Enforce Asset Purchase Agreement and Automatic Stay Against Transform Holdco LLC and (B) Compel Turnover of Estate Property and Reply in Further Support of Its Motion to Assign Matter to Mediation
2913	3/20/2019	Debtors' Reply in Further Support of the Motion to (A) Enforce Asset Purchase Agreement and Automatic Stay Against Transform Holdco LLC and (B) Compel Turnover of Estate Property
3011	4/2/2019	Initial Supplemental Brief in Response to Debtors' Motion to (A) Enforce Asset Purchase Agreement and Automatic Stay Against Transform Holdco LLC and (B) Compel Turnover of Estate Property
3079	4/8/2019	Debtors Supplemental Memorandum of Law in Further Support of Their Motion to Enforce the Automatic Stay
3156	4/11/2019	Transform Holdco LLC's Supplemental Reply Brief in Response to Debtors' Motion to (A) Enforce Asset Purchase Agreement and Automatic Stay Against Transform Holdco LLC and (B) Compel Turnover of Estate Property
3171	4/12/2019	Notice of Amendment to Asset Purchase Agreement Extending Certain Deadlines
3742	5/8/2019	Order Enforcing Asset Purchase Agreement Against Transform Holdco LLC
3880	5/15/2019	Notice of Filing Second Amendment to the Asset Purchase Agreement
4029	5/24/2019	Debtors' Supplemental Motion to Enforce the Asset Purchase Agreement
4033	5/25/2019	Transform Holdco LLC's Adversary Complaint

4390	6/28/2019	Disclosure Statement for Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and Its Affiliated Debtors
4430	7/3/2019	Debtors' Brief in Opposition to Transform Holdco LLC's Adversary Complaint and in Further Support of Debtors' Supplemental Motion to Enforce the Asset Purchase Agreement
4464	7/8/2019	Transform Holdco LLC's Brief in Support of the Adversary Complaint and in Opposition to Debtors' Supplemental Motion to Enforce the Asset Purchase Agreement
4476	7/9/2019	Modified Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and its Affiliated Debtors
4478	7/9/2019	Disclosure Statement for Modified Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and its Affiliated Debtors
4480	7/9/2019	Transform Holdco LLC's Reply Brief in Further Support of the Adversary Complaint
4767	8/6/2019	Supplemental Memorandum of Law in Support of Transform Holdco LLC's Adversary Complaint
4973	8/23/2019	Supplemental Memorandum of Law in Support of Debtors' Brief in Opposition to Transform Holdco LLC's Adversary Complaint and in Further Support of Debtors' Supplemental Motion to Enforce the Asset Purchase Agreement
5085	9/6/2019	Reply Memorandum of Law in Further Support of Transform Holdco LLC's Adversary Complaint
5139	9/13/2019	Modified Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and Its Affiliated Debtors
5148	9/13/2019	Declaration of Brian J. Griffith in Support of Confirmation of Modified Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and Its Affiliated Debtors
5370	10/15/2019	Order (I) Confirming Modified Second Amended Joint Chapter 11 Plan of Sears Holdings Corporation and Its Affiliated Debtors and (II) Granting Related Relief
5796	11/8/2019	Second Supplemental Memorandum of Law in Support of Transform Holdco LLC's Adversary Complaint

6079	11/22/2019	Debtors' Opposition to Transform Holdco LLC's Second Supplemental Memorandum of Law in Support of Its Adversary Complaint
6084	11/22/2019	Motion of Debtors to Compel Turnover of Estate Property
6150	12/6/2019	Objection to Motion to Compel Turnover of Estate Property
6327	1/10/2020	Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019(a) for Entry of an Order Approving Settlement Agreement with Transform Holdco LLC
6413	1/28/2020	Order Approving Settlement Agreement Between the Debtors and Transform Holdco LLC
6809	1/31/2020	Notice of Withdrawal of the Debtors' (I) First Motion to Enforce, (II) Supplemental Motion to Enforce, and (III) Motion for Turnover
8445	9/17/2020	Debtors' Motion Pursuant to Federal Rule of Bankruptcy Procedure 9019(a) for Entry of an Order Approving Second APA Settlement Agreement with Transform Holdco LLC
9025	10/16/2020	Order Approving Second APA Settlement Agreement Between the Debtors and Transform Holdco LLC
9106	11/19/2020	Motion of Debtors to Compel Turnover of Estate Property
9138	12/3/2020	Transform Holdco LLC's Brief in Opposition to the Debtors' Motion to Compel Turnover of Estate Property
9156	12/8/2020	Reply in Further Support of Motion of Debtors to Compel Turnover of Estate Property
9261	1/22/2021	Notice of Withdrawal of the Debtors' Motion to Compel Turnover of Estate Property
9249	1/21/2021	Sears Holdings: Status Update Presentation to the Court
9395	4/6/2021	Debtors' Third Motion to Enforce the Asset Purchase Agreement
9396	4/6/2021	Declaration of Jennifer Brooks Crozier in Support of Debtors' Third Motion to Enforce the Asset Purchase Agreement
9426	4/20/2021	Transform Holdco LLC's Brief in Opposition to the Debtors' Third Motion to Enforce the Asset Purchase Agreement

9427	4/20/2021	Declaration of Charles W. Allen in Support of Transform Holdco LLC's Brief in Opposition to the Debtors' Third Motion to Enforce the Asset Purchase Agreement
9436	4/23/2021	Debtors' Reply in Further Support of Third Motion to Enforce the Asset Purchase Agreement
9437	4/23/2021	Declaration of Enrique Acevedo in Support of Debtors' Reply in Further Support of Third Motion to Enforce the Asset Purchase Agreement
9440	4/26/2021	Notice of Agenda of Matters Scheduled for Telephonic Hearing on April 27, 2021 at 10:00 a.m.
9445	4/27/2021	Sears Holdings: Status Update Presentation to the Court
9483	5/11/2021	Supplemental Memorandum of Law in Opposition to the Debtors' Third Motion to Enforce the Asset Purchase Agreement
9485	5/11/2021	Declaration of Sean A. O'Neal in Support of Transform Holdco LLC's Supplemental Memorandum of Law in Opposition to the Debtors' Third Motion to Enforce the Asset Purchase Agreement
9486	5/11/2021	Declaration of Keith Stopen in Support of Transform Holdco LLC's Supplemental Memorandum of Law in Opposition to the Debtors' Third Motion to Enforce the Asset Purchase Agreement
9506	5/18/2021	Declaration of William Murphy in Support of Debtors' Supplemental Reply in Further Support of Third Motion to Enforce the Asset Purchase Agreement
9507	5/18/2021	Debtors' Supplemental Reply in Further Support of Third Motion to Enforce the Asset Purchase Agreement
9508	5/18/2021	Joinder of the Official Committee of Unsecured Creditors to Debtors' Supplemental Reply in Further Support of Third Motion to Enforce the Asset Purchase Agreement
9574	6/15/2021	Order Granting the Debtors' Third Motion to Enforce the Asset Purchase Agreement
9576	6/16/2021	Motion of Transform Holdco LLC for a Stay Pending Appeal
9578	6/16/2021	Motion of Transform Holdco LLC for Order Shortening Notice with Respect to Motion of Transform Holdco LLC for a Stay Pending Appeal

9581	6/16/2021	Notice of Appeal
N/A	N/A	Copy of Bankruptcy Court Docket Report through June 30, 2021

TRANSCRIPTS OF PROCEEDINGS

Docket No.	Docket Entry Date	Description
2700	2/5/2019	Transcript Regarding Hearing Held on 2/4/2019
2869	2/8/2019	Transcript Regarding Hearing Held on 2/6/2019
2886	2/11/2019	Transcript Regarding Hearing Held on 2/7/2019
3758	3/22/2019	Transcript Regarding Hearing Held on 3/21/2019
4800	8/9/2019	Transcript Regarding Hearing Held on 7/11/2019
9 (in Adversary Proceeding 19-08262)	10/17/2019	Transcript Regarding Hearing Held on 9/12/2019
5463	10/22/2019	Transcript Regarding Hearing Held on 4/18/2019
9465	5/5/2021	Transcript Regarding Hearing Held on 4/27/2021

Dated: New York, New York
June 30, 2021

CLEARY GOTTlieb STEEN & HAMILTON LLP

By: /s/ Andrew Weaver
Sean A. O'Neal
Andrew Weaver
Samuel Levander

One Liberty Plaza
New York, New York 10006
Telephone: (212) 225-2000
Facsimile: (212) 225-3999

Counsel for Transform Holdco LLC